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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

CONSUMER FINANCIAL PROTECTION BUREAU,

PETITIONER,

VS.

CENTER FOR EXCELLENCE IN HIGHER EDUCATION,

RESPONDENT.

**NOTICE OF
SUPPLEMENTAL
AUTHORITY**

CASE NO. 2:19-CV-00877-
DB-CMR

JUDGE DEE BENSON

MAGISTRATE JUDGE
CECILIA M. ROMERO

NOTICE OF SUPPLEMENTAL AUTHORITY

On Tuesday, September 8, 2020, the United States Court of Appeals for the Fifth Circuit entered an order (attached as Ex. A) holding in abeyance *CFPB v. All American Check Cashing, Inc.*, No. 18-60302, which had been scheduled for *en banc* consideration later this month, pending the Supreme Court's decision in *Collins v. Mnuchin*, Nos. 19-422 and 19-563.

CFPB v. All American Check Cashing, Inc. raises the same legal question present here—namely, what is the appropriate remedy for the CFPB's constitutional defect recognized in *Seila Law LLC v. CFPB*, 140 S. Ct. 2183 (2020). [See Suppl. En Banc Br. of Appellants, CFPB v. All American Check Cashing, Inc., No. 18-60302 \(5th Cir. July 30, 2020\).](#)

As noted in Respondent's June 30 Notice of Supplemental Authority, the Supreme Court left open that question in *Seila Law* because the parties had not briefed it. *See* Dkt. No. 33 at 2; *see also Seila Law*, 140 S. Ct. at 2208. Just days after issuing *Seila Law*, however, the Supreme Court granted certiorari in *Collins v. Mnuchin* which squarely presents the question for the Court's review. [See Petition for Writ of Certiorari at i, Collins v. Mnuchin, No. 19-422 \(Sept. 25, 2019\)](#) (raising the question presented: “[w]hether the courts must set aside a final agency action that [an agency] took when it was unconstitutionally structured”).

The Fifth Circuit made the prudent decision to hold *CFPB v. All American Check Cashing, Inc.* in abeyance in recognition of the fact that the Supreme Court took up the present question in *Collins v. Mnuchin*, Nos. 19-422 and 19-563. This

Court should similarly hold this case in abeyance pending the Supreme Court's decision in *Collins v. Mnuchin*, Nos. 19-422 and 19-563.

Dated: September 10, 2020

SNELL & WILMER L.L.P.

Paul W. Shakespear

GOMBOS LEYTON, P.C.

/s/ Jacob C. Shorter

Steven M. Gombos

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 10, 2020, I served the foregoing document via the court's CM/ECF electronic filing system to all counsel of record, including the following:

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